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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/465,529	12/16/1999	NOSAKHARE D. OMOIGUI	MS1-420US	8985
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LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			EXAMINER SALCE, JASON P	
			ART UNIT 2623	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/465,529	<b>Applicant(s)</b> OMOIGUI, NOSAKHARE D.	
	<b>Examiner</b> Jason P. Salce	<b>Art Unit</b> 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-13,15-37 and 39-57 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-13,15-37 and 39-57 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

Applicant's arguments filed 6/27/2007 have been fully considered but they are not persuasive.

Applicant has amended the claims to recite that the viewer-defined preferences are defined in terms of events that can occur within specified electronic presentations, wherein at least some of said events describe some activity or action that can take place within the specified electronic presentation itself.

The examiner notes that amendment made to the claims is broad and further notes that the events (**Tiger Woods Teeing Off**) clearly occur in specified electronic presentations. Whether a manual tuning operation specifies the electronic presentation or an automatic tuning based on a viewer's profile, both instances can be interpreted as a specified electronic presentation, where Menard clearly teaches the latter in the rejection of claim 1 (and all subsequent independent claims).

Applicant also argues in regards to unamended claims 44, 52 and 55 that Menard does not monitor viewing habits of the user. Applicant argues that cited Column 4, Lines 21-26 only teaches a search profile and that this is not monitoring viewing habits of the user. The examiner notes that the recitation "monitoring viewing habits" is broad, and does not detail how monitoring is specifically being performed. Clearly by sending a search profile indicating keywords such as Clinton or Middle East allows a server to monitoring what the viewer is interested in watching, thereby

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monitoring viewing habits because the user is more likely to watch news programs containing Clinton or the Middle East. Even further, Menard allows a server to monitor viewing habits by actually collecting usage statistics, which is clearly another way that monitoring viewing habits can be performed by the system of Menard (**see Column 5, Lines 40-42**).

Therefore, the rejection of claims 44, 52 and 55 are maintained.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 5-7, 9-13, 15-17, 19-27, 29-37, 39-46 and 50-54 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Menard et al. (U.S. Patent No. 6,810,526).

Referring to claim 1, Menard discloses a management method for managing viewing of multiple live electronic presentations (see Column 1, Lines 4-7 and Column 2, Lines 14-29).

Menard also discloses simultaneously monitoring two or more electronic presentations that are concurrently broadcast (see Column 3, Lines 5-9 for

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simultaneously monitoring each channel by the use of separate servers 8 in Figure 1), wherein said monitoring comprises monitoring data that does not comprise content that can be presented to a viewer (see Column 2, Line 60 through Column 3, Line 4 and Column 4, Lines 12-16 and Column 4, Lines 47-57 for the monitoring comprising the use of time-tagged text streams, which are only used by the servers 4 and 8 and are not displayed to the user).

Menard also discloses automatically switching back and forth between displays of the two or more electronic presentations based upon viewer-defined preferences (see Column 3, Lines 33-39 for causing PC 7 or television set to change channels based upon an alert signal sent to the user, where the alert signal is triggered based on the user's request (or requests) to view television programs with Bill Clinton talking about the Middle East (see Column 3, Lines 33-40)), wherein the viewer-defined preferences are defined in terms of events that can occur within electronic presentations (see Column 3, Lines 20-25 for the viewer defined preferences being Clinton and Middle East, which define the events of Bill Clinton talking about the Middle East occurring in the electronic presentation), wherein at least some of said events describe some activity or action that can take place within the electronic presentation itself (again see Column 3, Lines 20-25 for the events being the action/activity of Bill Clinton talking about the Middle East).

Referring to claim 2, Menard discloses that the viewer-defined preferences are defined in terms of specific electronic presentation titles (see again Column 3, Lines 20-

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25 where the preferences Clinton and Middle East are used to find programs (that contain titles) where Bill Clinton talks about the Middle East, therefore the preferences Clinton and Middle East are defined in terms of specific electronic presentation titles that contain Bill Clinton talking about the Middle East).

Referring to claim 3, Menard discloses that the viewer-defined preferences are defined in terms of topics that can occur within electronic presentations (see Column 3, Lines 20-25 for a preference being Middle East, which is a topic).

Referring to claim 5, see the rejection of claims 1-3.

Referring to claim 6, Menard discloses that the viewer-defined preferences are defined in terms of priorities that can be assigned to the two or more electronic presentations (see Column 3, Lines 20-25 for the preferences Clinton and Middle East, which define priorities of what the user is interested in watching).

Referring to claim 7, see the rejection of claim 6.

Referring to claims 9-10, Menard discloses one or more computers (which contain one or more computer-readable media) with instructions which, when executed by the one or more computers, cause the one or more computers to perform the method of claim 1 (see the rejection of claim 1 and Figure 1 for the one or more computers).

Referring to claim 11, see the rejection of claim 1 and further note that Menard also discloses automatically notifying a viewer when one or more electronic presentations satisfies a viewer-defined preference (see again Column 3, Lines 33-39) and that the activity or action can pertain to a character or person in at least one of said two or more electronic presentations (see Column 3, Lines 20-25 for the activity/action being Bill Clinton (person) talking about the Middle East (action)).

Referring to claims 12-13, see the rejection of claims 2-3, respectively.

Referring to claims 15-17 and 19, see the rejection of claims 5-7 and 9, respectively.

Referring to claim 20, Menard discloses one or more programmable computers having instructions which, when executed by the one or more computers implement a viewing management method for managing viewing of multiple live electronic presentations (see the rejection of claims 1 and 9).

Menard also discloses sending at least one viewer request to an encoder (see Column 4, Lines 47-57 for search engine 21 in Figure 2 receiving the viewer request stored in the user profile in memory 20), the viewer request containing one or more viewer-defined preferences that relate to one or more events that can occur in one or more electronic presentations (see the rejection of claim 1), wherein at least some of said events describe some activity or action that can take place within the electronic

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presentation itself (see the rejection of claim 1) and wherein an activity or action can pertain to a character or person in at least one of said one or more electronic presentations (see the rejection of claim 11).

Menard also discloses evaluating, with the encoder, one or more electronic presentations that are being broadcast to determine whether any of the viewer-defined preferences are satisfied (see again Column 4, Lines 47-57 for search engine 21 being used to determine if a viewer-defined preference is satisfied), wherein evaluating comprises at least monitoring data that does not comprise content that can be presented to a viewer (see the rejection of claim 1).

Menard also discloses if a viewer-defined preference is satisfied by one or more of the electronic presentations, notifying a viewer that is associated with the viewer-defined preferences that was satisfied (see again Column 3, Lines 15-39).

Referring to claim 21, Menard discloses that notifying comprises automatically displaying the electronic presentation that satisfied the viewer-defined preference (see Column 3, Lines 38-39).

Referring to claim 22, Menard discloses that notifying comprises displaying indicia for the viewer that is associated with the viewer-defined preference that was satisfied (see Column 3, Lines 36-37).



Referring to claim 23, Menard discloses that prior to sending, receiving viewer requests with a server (see Column 4, Lines 21-24 for setting up the viewer profile in memory 20 prior to sending the viewer profile request to search engine 21), the viewer request originating from a plurality of different viewers (see Column 4, Lines 41-46).

Menard further discloses maintaining at least a list of viewers and their viewer-defined preferences in the server (see again Column 4, Lines 21-24 and Column 4, Lines 41-46).

Menard further discloses sending the viewer request from the server to the encoder (see Column 4, Lines 47-57 for sending the viewer request from memory 20 to search engine 21).

Referring to claim 24, Menard discloses sending a notification from the encoder to the server (see Column 4, Lines 47-57 for the notification of profile data being transmitted/sent from memory 20 to search engine 21 in Figure 3).

Menard also discloses receiving the notification sent from the encoder (see again Column 4, Lines 47-57 for receiving a notification of profile data from memory 20 to search engine 21 in Figure 3).

Menard also discloses sending a notification from the server to the viewer (see again Column 3, Lines 33-39).

Referring to claim 25, see the rejection of claim 20.

Referring to claims 26-27, see the rejection of claims 21-22, respectively.

Referring to claim 29, Menard discloses that receiving is performed by a server that is programmed to receive the viewer requests and notify the viewers (see again Column 4, Lines 47-57 and Column 3, Lines 33-39 and search server 4 in Figure 1).

Referring to claim 30, Menard discloses that receiving is performed by a server that is programmed to receive the viewer requests, evaluate the live electronic presentation, and notify the viewers (see again Column 4, Lines 47-57 and Column 3, Lines 33-39 and search server 4 in Figure 1).

Referring to claim 31, Menard discloses receiving information describing the electronic presentation as they are broadcast (see Column 4, Lines 12-13 for receiving the time-tagged text stream from LAN 14 previously described by the examiner in the rejections above), receiving updated information describing the electronic presentations as they are being broadcast (see Column 4, Lines 47-49 for the text stream continually being sent over LAN 14, thereby continually updating the text streams from the television program in order for a profile match from the profile data stored in memory 20 to occur) and evaluating all of the information that is received in light of the viewer-defined preferences (see again Column 4, Lines 47-57 for evaluating all of the incoming text-tagged data streams against the user's profiles stored in memory 20).

Referring to claims 32-33, see the rejection of claims 9-10, respectively.

Referring to claim 34, see the rejection of claims 25 and 31.

Referring to claims 35-37 and 39-40, see the rejection of claims 25-26, 2, 39 and 9, respectively.

Referring to claim 41, see the rejection of claims 1, 25 and 29 and further note Figure 1 of Menard for teaching multiple client devices (PC 7) and computing devices (servers 8 and 4).

Referring to claim 42, see the rejection of claim 22.

Referring to claim 43, Menard discloses that the indicia comprises a display of the live electronic presentation (see Column 3, Lines 33-39).

Referring to claim 44, see the rejection of claims 1, 11 and 25 and further note that Menard teaches monitoring viewing habits of one or more viewers of live electronic presentations at Column 4, Lines 21-26, which discloses setting up a user's profile.

Referring to claims 45-46, see the rejection of claims 21-22, respectively.

Referring to claims 50-51, see the rejection of claims 9-10, respectively.

Referring to claim 52, see the rejection of claim 44.

Referring to claim 53-54, Menard teaches either a television or computer display at Column 3, Lines 38-39.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 18, 28, 47-49 and 55-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Menard et al. (U.S. Patent No. 6,810,526) in view of Alexander et al. (U.S. Patent No. 6,177,931).

Referring to claim 8, Menard discloses all of the limitations of claim 1, but is silent as to the specific display of the detected television programs, thereby failing to teach that the automatic switching comprises enabling a PIP display for the viewer in which at least two of the electronic presentations are contemporaneously displayed for the viewer.

Alexander teaches a method for collecting viewer profile information at a central server similar to the method of Menard (see Column 29, Lines 12-67) and using the profile information to display specific electronic presentations to the viewer (see Column 31, Lines 25-33 or Column 32, Line 61 through Column 33, Line 8).

Alexander further teaches using the profile information/viewer-defined preferences to automatically switch using a PIP display for the viewer in which at least two electronic presentations are contemporaneously displayed for the viewer (see Column 31, Lines 9-24).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the television display, as taught by Menard, using the PIP display functionality, as taught by Alexander, for the purpose of providing improved features to the EPG display and navigation, improved opportunities for the commercial advertiser to reach the viewer (see Column 2, Lines 5-15 of Alexander).

Referring to claim 18, see the rejection of claim 8.

Referring to claim 28, see the rejection of claim 8.

Referring to claim 47, see the rejection of claim 8.

Referring to claim 48, Menard discloses all of the limitations of claim 44, as well as collecting viewer profile data stored in memory 20 (see Column 4, Lines 21-23), but fails to teach establishing a correlation between the time that a viewer views a particular electronic presentation and the events that transpire during that time.

As described in the rejection of claim 8, Alexander discloses a similar system for gathering and evaluating profile data (see the rejection of claim 8). This includes establishing a correlation between the time that a viewer views a particular electronic presentation and the events that transpire during that time (see Column 28, Line 10 through Column 30, Line 44).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the profile gathering and evaluation techniques, as taught by Menard, using the profile process, taught by Alexander, for the purpose of

providing improved features to the EPG display and navigation, improved opportunities for the commercial advertiser to reach the viewer (see Column 2, Lines 5-15 of Alexander) and utilization of viewer profile information to customize various aspects of the EPG and provide customized presentation of advertising to the viewer (see Column 2, Lines 17-20 of Alexander).

Referring to claim 49, see the rejection of claim 48 and further note Column 29, Lines 22-30 for repeating profile collection process over a plurality of time frames during which the viewer is viewing one or more electronic presentations.

Referring to claim 55, see the rejection of claims 1 and 8, and further note that Alexander teaches the user interface in Figure 3, which clearly teaches presenting a plurality of fields, one of which displaying a number of titles of programs that can be selected by a viewer, another of which displaying indicia that can be selected to define viewer preferences. Further note Figure 2 for an input device operable to enable a user to select a particular presentation for continuous play viewing.

Referring to claim 56, Alexander discloses that said indicia are associated with predefined aspect of the programs (see PIP window in Figure 3 for displaying the real-time program that is highlighted in the grid).

Referring to claim 57, Alexander discloses that said indicia is associated with viewer-definable aspects of the programs (see Ad Windows in Figure 3, which can display advertisements according to what the viewer has previously watched (see Column 32, Lines 35-54)).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jason P Salce  
Primary Examiner  
Art Unit 2623

September 14, 2007

A handwritten signature in black ink, appearing to read "Jason Salce", is written over the typed name and title.